

ERNESTO LOPEZ
CORRECTIONAL TRAINING FACILITY
E-10652 ED-144-LOW
P.O. Box 689
Soledad, CA 93960-0689
Pro Se

FILED
08 AUG 19 PM 12:36
CLERK OF U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ERNESTO LOPEZ,)
Petitioner,)
v.)
BEN CURRY, Warden et al.)
Respondent.)

CASE NO.: C 08-0012 VRW (PR)

**PETITIONER'S RESPONSE TO RESPONDENT'S
MOTION TO DISMISS SOME GROUNDS.**

Petitioner, Ernesto Lopez, received notice that Respondent moves this Court to dismiss Petitioner's Petition for Writ of Habeas Corpus because not all of Petitioner's grounds present a federal question.

Petitioner instead asks this Court to dismiss the two claims Respondent complains do not present a federal question and re-order Respondent to answer the remaining Grounds: (1) the Board's decision violates his due process rights because there is no evidence that he poses a current risk to public safety; (3) the Board's decision violates his due process rights because the Board relied on unchanging factors; (4) the Board's decision violated his due process rights when finding his crime to be especially heinous, atrocious, or cruel because that finding is inconsistent with his being housed at a level II facility; (6) the Board's decision violated his Sixth Amendment right to a jury trial by finding that he committed a crime greater than that found by a jury. This Grounds are listed in Respondent's motion page 2.

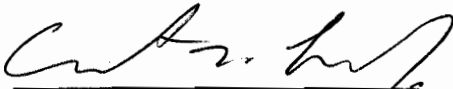
CONCLUSION

THEREFORE: Petitioner asks this Court to dismiss Petitioner's second and fifth grounds for relief as requested by Respondent and order Respondent to answer Petitioner's remaining grounds in a timely manner.

August 16, 2008

I declare under penalty of perjury the above is true and correct.

Respectfully Submitted,



Ernesto Lopez Pro Se

**PROOF OF SERVICE BY MAIL
BY PERSON IN STATE CUSTODY**

(C.C.P. §§ 1013(A), 2015,5)

I, Ernesto Lopez, declare:

I am over 18 years of age and I am party to this action. I am a resident of CORRECTIONAL TRAINING FACILITY prison, in the County of Monterrey, State of California. My prison address is:

Ernesto Lopez, CDCR #: E-10652
CORRECTIONAL TRAINING FACILITY
P.O. BOX 689, CELL #: ED-144-Low
SOLEDAD, CA 93960-0689.

On August 16, 2008, I served the attached:

Petitioner's Response to Respondent's Motion to Dismiss some Grounds.

on the parties herein by placing true and correct copies thereof, enclosed in a sealed envelope (verified by prison staff), with postage thereon fully paid, in the United States Mail in a deposit box so provided at the above-named institution in which I am presently confined. The envelope was addressed as follows:

United States District Court
Northern District of California
450 Golden Gate Ave.
P.O. Box 36060
San Francisco, CA 94102-9680

California Attorney General
Deputy Attorney General
455 Golden Gate Ave. #11000
San Francisco, CA 94102-7004

ATTN: Denise A. Yates

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on August 16, 2008.


Ernesto Lopez

Declarant

Salceda, CA 93960

INDEX



U.S. District Court
Northern District of California
450 Golden Gate Ave.

P.O. Box 36060

[illegible]

6/16/08
2/16/08